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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0433-AIR-E **TCEQ ID:** RN102337730 **CASE NO.:** 35554
RESPONDENT NAME: Permian Tank & Manufacturing, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Permian Tank & Manufacturing, 2701 West Interstate Highway 20, Odessa, Ector County</p> <p>TYPE OF OPERATION: Storage tank manufacturing plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 1, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5806; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. James M. Bidlack, President, Permian Tank & Manufacturing, Inc., 2701 West Interstate Highway 20, Odessa, Texas 79766 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 SEP 22 PM 12:22
CHIEF CLERKS OFFICE

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 7, 2008</p> <p>Date of NOV/NOE Relating to this Case: March 7, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to maintain stack observation records. Specifically, there were no quarterly stack observation records being maintained [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 76038, Special Condition 2].</p> <p>2) Failure to prevent exceedances of maximum allowed usage rates of 150 tons per year, 15 tons per month, and one ton per day for abrasive blast cleaning operations. Specifically, during the periods January 1, 2006 through December 31, 2006, and January 1, 2007 through December 31, 2007, the usage rates were 225.55 and 184.65 tons of sand, respectively. In addition, the tons per day rate was exceeded 10 times and the tons per month rate was exceeded 11 times during 2006. In 2007, the tons per day rate was exceeded 10 times and the tons per month rate was exceeded 12 times [30 TEX. ADMIN. CODE § 106.452(2)(A), 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to prevent exceedances of the permit limit. Specifically, in 2005 the emissions were 37.47 tons per year ("tpy") of volatile organic compounds ("VOCs") and 7.75 tpy of xylene. In 2006, the emissions were 36.10 tpy of VOCs and 7.20 tpy of xylene. In 2007, the emissions</p>	<p>Total Assessed: \$42,500</p> <p>Total Deferred: \$8,500 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$34,000</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent started observing and recording the quarterly stack observations on January 22, 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Implement improved operating measures to prevent exceedances of the maximum allowable rate for the amount of sand used in the abrasive blast cleaning;</p> <p>ii. Implement measures to prevent the exceedance of the permit limits for VOCs and xylene; and</p> <p>iii. Submit the required semi-annual DRs for sand, VOCs, and xylene for the time frames of April 27, 2006 to October 26, 2006, and April 27, 2007 to October 26, 2007.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

RESPONDENT NAME: Permian Tank & Manufacturing, Inc.
DOCKET NO.: 2008-0433-AIR-E

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<p>were 33.06 tpy of VOCs and 6.08 tpy of xylene [30 TEX. ADMIN. CODE § 116.115(b)(1), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit By Rule No. X-16285].</p> <p>4) Failure to submit deviation reports ("DRs") for time frames in which deviations are known to have occurred. Specifically, semi-annual DRs for sand, VOCs, and xylene deviations were not submitted for the time frames of April 27, 2006 to October 26, 2006, and April 27, 2007 to October 26, 2007 [30 TEX. ADMIN. CODE § 122.145(2)(B), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): Air Permit No. 76038



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision February 29, 2008

TCEQ

DATES

Assigned

10-Mar-2008

PCW

19-Mar-2008

Screening

17-Mar-2008

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Permian Tank & Manufacturing, Inc.

Reg. Ent. Ref. No. RN102337730

Facility/Site Region 7-Midland

Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No. 35554

Docket No. 2008-0433-AIR-E

Media Program(s) Air

Multi-Media

No. of Violations 4

Order Type 1660

Enf. Coordinator J. Craig Fleming

EC's Team Enforcement Team 3

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$42,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

0% Enhancement

Subtotals 2, 3, & 7 \$0

Notes

No change due to average performer classification.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

Total EB Amounts

\$350

Approx. Cost of Compliance

\$2,300

0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$42,500

OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$42,500

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$42,500

DEFERRAL

20%

Reduction

Adjustment -\$8,500

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$34,000

Screening Date 17-Mar-2008

Docket No. 2008-0433-AIR-E

PCW

Respondent Permian Tank & Manufacturing, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35554

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102337730

Media [Statute] Air

Enf. Coordinator J. Craig Fleming

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No change due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 17-Mar-2008		Docket No. 2008-0433-AIR-E		PCW	
Respondent Permian Tank & Manufacturing, Inc.		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 35554		<small>PCW Revision February 29, 2008</small>			
Reg. Ent. Reference No. RN102337730					
Media [Statute] Air					
Enf. Coordinator J. Craig Fleming					
Violation Number 1					
Rule Cite(s)		30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b), and New Source Review Permit No. 76038, Special Condition 2			
Violation Description		Failed to maintain stack observation records. Specifically, there were no quarterly stack observation records being maintained.			
Base Penalty					\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm					
	Release	Major	Moderate	Minor		
	Actual					
	Potential				Percent	0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor		
	x					
					Percent	25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

Violation Events

Number of Violation Events	1		1	Number of violation days
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<small>mark only one with an x</small>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

One single event is recommended based on the investigation on February 7, 2008.

Violation Base Penalty \$2,500

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$5
	Violation Final Penalty Total \$2,500
This violation Final Assessed Penalty (adjusted for limits) \$2,500	

Economic Benefit Worksheet**Respondent** Permian Tank & Manufacturing, Inc.**Case ID No.** 35554**Reg. Ent. Reference No.** RN102337730**Media** Air**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	7-Feb-2007	22-Jan-2008	1.0	\$5	n/a	\$5
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to establish a record keeping procedure for recording and maintaining quarterly stack observations. The Date Required was the date of the investigation. The Final Date is the date of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$100

TOTAL

\$5

Screening Date 17-Mar-2008

Docket No. 2008-0433-AIR-E

PCW

Respondent Permian Tank & Manufacturing, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35554

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102337730

Media [Statute] Air

Enf. Coordinator J. Craig Fleming

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 106.452(2)(A), 30 Tex. Admin. Code § 116.115(c), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent exceedances of maximum allowed usage rates of 150 tons per year, 15 tons per month, and 1 ton per day for abrasive blast cleaning operations. Specifically, during the periods January 1, 2006 through December 31, 2006; and January 1, 2007 through December 31, 2007, the usage rates were 225.55 and 184.65 tons of sand, respectively. In addition, the tons per day rate was exceeded 10 times and the tons per month rate was exceeded 11 times during 2006. In 2007, the tons per day rate was exceeded 10 times and the tons per month rate was exceeded 12 times.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 8

729 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$20,000

Eight quarterly events are recommended for the time period from January 1, 2006 to December 31, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$142

Violation Final Penalty Total \$20,000

This violation Final Assessed Penalty (adjusted for limits) \$20,000

Economic Benefit Worksheet

Respondent Permian Tank & Manufacturing, Inc.

Case ID No. 35554

Reg. Ent. Reference No. RN102337730

Media Air

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$1,000	1-Jan-2006	1-Nov-2008	2.8	\$142	n/a	\$142
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to establish procedures to abate the exceedances of sand used in abrasive blast cleaning. The Date Required was the date the exceedances started. The Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$1,000

TOTAL

\$142

Screening Date 17-Mar-2008	Docket No. 2008-0433-AIR-E	PCW
Respondent Permian Tank & Manufacturing, Inc.	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 35554	<small>PCW Revision February 29, 2008</small>	
Reg. Ent. Reference No. RN102337730		
Media [Statute] Air		
Enf. Coordinator J. Craig Fleming		
Violation Number 3		
Rule Cite(s)	30 Tex. Admin. Code § 116.115(b)(1), Tex. Health & Safety Code § 382.085(b), and Permit By Rule No. X-16285	
Violation Description	Failed to prevent exceedances of the permit limit. Specifically, the Plant exceeded the permit limits of 10.75 tons per year ("tpy") of volatile organic compounds ("VOCs") and 3.32 tpy of xylene. Specifically, in 2005 the emissions were 37.47 tpy of VOCs and 7.75 tpy of xylene. In 2006, the emissions were 36.10 tpy of VOCs and 7.20 tpy of xylene. In 2007, the emissions were 33.06 tpy of VOCs and 6.08 tpy of xylene.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm					
	Release	Major	Moderate	Minor		
	Actual	Potential	Actual	Potential		
			x			Percent 50%

>> Programmatic Matrix

	Falsification					
	Major	Moderate	Minor			
	Actual	Potential	Actual	Potential		
						Percent 0%

Matrix Notes
 Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events	3	1094	Number of violation days
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<small>mark only one with an x</small>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Three annual events are recommended for the years 2005, 2006, and 2007.

Economic Benefit (EB) for this violation
 Estimated EB Amount \$184

Statutory Limit Test
 Violation Final Penalty Total \$15,000
 This violation Final Assessed Penalty (adjusted for limits) \$15,000

Economic Benefit Worksheet

Respondent: Permian Tank & Manufacturing, Inc.

Case ID No. 35554

Reg. Ent. Reference No. RN102337730

Media Air

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$1,000	1-Mar-2005	1-Nov-2008	3.7	\$184	n/a	\$184
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to establish procedures to abate the exceedances of VOCs and xylene. The Date Required was the date the exceedances started. The Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$1,000

TOTAL

\$184

Screening Date 17-Mar-2008 Respondent Permian Tank & Manufacturing, Inc. Case ID No. 35554 Reg. Ent. Reference No. RN102337730 Media [Statute] Air Enf. Coordinator J. Craig Fleming Violation Number 4 Rule Cite(s) 30 Tex. Admin. Code § 122.145(2)(B), and Tex. Health & Safety Code § 382.085(b)	Docket No. 2008-0433-AIR-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision February 29, 2008</i>
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Violation Description	Failed to submit deviation reports ("DRs") for time frames in which deviations are known to have occurred. Specifically, semi-annual DRs for sand, VOCs, and xylene deviations were not submitted for the time frames of April 27, 2006 to October 26, 2006; and April 27, 2007 to October 26, 2007.
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Base Penalty	\$10,000
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>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	x	<input type="text"/>	<input type="text"/>	
25%				

Matrix Notes	100% of the rule requirement was not met.
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Adjustment	\$7,500
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Adjustment	\$2,500
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Violation Events

Number of Violation Events	2	364	Number of violation days
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mark only one with an x	daily	<input type="text"/>	Violation Base Penalty
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	x	

Two single events (one for each deviation report not submitted) are recommended.
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Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$19
	Violation Final Penalty Total
	\$5,000
This violation Final Assessed Penalty (adjusted for limits)	
\$5,000	

Economic Benefit Worksheet

Respondent Permian Tank & Manufacturing, Inc.
Case ID No. 35554
Reg. Ent. Reference No. RN102337730
Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	26-Nov-2006	1-Nov-2008	1.9	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost to submit the deviation reports (\$100 each). The Date Required was the date of the first deviation report time period. The Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$200

TOTAL

\$19

Compliance History

Customer/Respondent/Owner-Operator: CN600125678 Permian Tank & Manufacturing, Inc. Classification: AVERAGE Rating: 7.17
 Regulated Entity: RN102337730 PERMIAN TANK & MANUFACTURING Classification: HIGH Site Rating: 0.00

ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT	16285
	AIR NEW SOURCE PERMITS	PERMIT	25320
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	EB00960
	AIR NEW SOURCE PERMITS	PERMIT	76038
	AIR NEW SOURCE PERMITS	AFS NUM	4813500071
	STORMWATER	PERMIT	TXR05M923
	PETROLEUM STORAGE TANK	REGISTRATION	54270
	REGISTRATION		
	AIR OPERATING PERMITS	PERMIT	2827
	AIR OPERATING PERMITS	ACCOUNT NUMBER	EB00960

Location: 2701 W IH 20, ODESSA, TX, 79766 Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 07 - MIDLAND
 Date Compliance History Prepared: March 11, 2008
 Agency Decision Requiring Compliance Enforcement
 Compliance Period: March 11, 2003 to March 11, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: J. Craig Fleming Phone: (512) 239-5806

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 12/11/2006 (533732)
 - 2 03/04/2008 (637731)
 - 3 03/07/2008 (636243)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 SEP 22 PM 12:22

CHIEF CLERKS OFFICE

IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
PERMIAN TANK &
MANUFACTURING, INC.
RN102337730

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-0433-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Permian Tank & Manufacturing, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a storage tank manufacturing plant which includes welding, abrasive sand-blasting, and spray coating at 2701 West Interstate Highway 20 in Odessa, Ector County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 12, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Forty-Two Thousand Five Hundred Dollars (\$42,500) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Thirty-Four Thousand Dollars (\$34,000) of the administrative penalty and Eight Thousand Five Hundred Dollars (\$8,500) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent started observing and recording the quarterly stack observations on January 22, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to maintain stack observation records, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 76038, Special Condition 2, as documented during an investigation conducted on February 7, 2008. Specifically, there were no quarterly stack observation records being maintained.
2. Failed to prevent exceedances of maximum allowed usage rates of 150 tons per year, 15 tons per month, and one ton per day for abrasive blast cleaning operations, in violation of 30 TEX. ADMIN. CODE § 106.452(2)(A), 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, during the periods January 1, 2006 through December 31, 2006, and January 1, 2007 through December 31, 2007, the usage rates were 225.55 and 184.65 tons of sand, respectively. In addition, the tons per day rate was exceeded 10 times and the tons per month rate was exceeded 11 times during 2006. In 2007, the tons per day rate was exceeded 10 times and the tons per month rate was exceeded 12 times.

3. Failed to prevent exceedances of the permit limit, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(1), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit By Rule No. X-16285, as documented during an investigation conducted on February 7, 2008. Specifically, in 2005 the emissions were 37.47 tons per year ("tpy") of volatile organic compounds ("VOCs") and 7.75 tpy of xylene. In 2006, the emissions were 36.10 tpy of VOCs and 7.20 tpy of xylene. In 2007, the emissions were 33.06 tpy of VOCs and 6.08 tpy of xylene.
4. Failed to submit deviation reports ("DRs") for time frames in which deviations are known to have occurred, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(B), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 7, 2008. Specifically, semi-annual DRs for sand, VOCs, and xylene deviations were not submitted for the time frames of April 27, 2006 to October 26, 2006, and April 27, 2007 to October 26, 2007.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Permian Tank & Manufacturing, Inc., Docket No. 2008-0433-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Implement improved operating measures to prevent exceedances of the maximum allowable rate for the amount of sand used in the abrasive blast cleaning;
 - ii. Implement measures to prevent the exceedance of the permit limits for VOCs and xylene; and
 - iii. Submit the required semi-annual DRs for sand, VOCs, and xylene for the time frames of April 27, 2006 to October 26, 2006, and April 27, 2007 to October 26, 2007.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Midland Regional Office
Texas Commission on Environmental Quality
3300 North A Street, Building 4, Suite 107
Midland, Texas 79705-5404

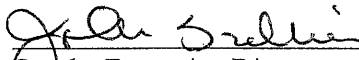
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

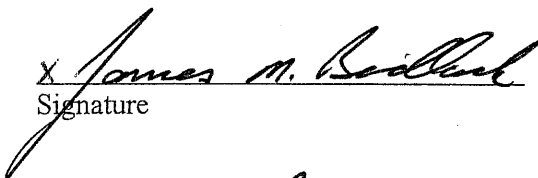
9/4/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

X 
Signature

6-5-08
Date

James M. Bidlack
Name (Printed or typed)
Authorized Representative of
Permian Tank & Manufacturing, Inc.

president
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

